EXHIBIT 12

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MATTHEW RAYMOND,
Plaintiff,

-vs- 18-CV-01467

TROY MITCHELL, LIEUTENANT AT AUBURN CORRECTIONAL FACILITY; CHARLES THOMAS, CORRECTION OFFICER AT AUBURN CORRECTIONAL FACILITY; THOMAS HARTE, SERGEANT AT AUBURN CORRECTIONAL FACILITY; THOMAS PHILLIPS, CORRECTION OFFICER AT AUBURN CORRECTIONAL FACILITY; THOMAS GIANCOLA, CORRECTION OFFICER AT AUBURN CORRECTIONAL FACILITY; HAROLD D. GRAHAM, FORMER SUPERINTENDANT OF AUBURN CORRECTIONAL FACILITY; BRIAN BAUERSFELD, CORRECTIONAL HEARING OFFICER OF AUBURN CORRECTIONAL FACILITY; BRIAN O'HORA, CORRECTION OFFICER AT AUBURN CORRECTIONAL FACILITY; AIMEE HOPPINS, R.N.; DR. DEBORAH GEER; AND "JOHN DOE", CORRECTION OFFICER AT AUBURN CORRECTIONAL FACILITY,
Defendants.

REMOTE EXAMINATION BEFORE TRIAL OF

SHERRY WITHIAM-LEITCH, MD

Tuesday, March 8, 2022

2:26 p.m. - 5:53 p.m.

pursuant to notice

REPORTED BY:

Carrie A. Fisher, Notary Public

APPEARING REMOTELY FROM ERIE COUNTY, NEW YORK

Patrick Mackey. I represent the defendants in this particular lawsuit and thank you for your time today for your deposition.

Just a couple of things before I get started with my questions. I just kind of wanted to lay down a couple ground rules so this goes as smoothly as possible. Please try to wait until I am done with my question before jumping in with an answer. It's easiest for the stenographer when everyone avoids talking over each other, and I will try to do the same. I will try to make sure you're done with your answer before I go onto my next question.

We do need verbal answers. A nod of the head doesn't help with the stenographer and neither does an mhmm or uh-huh. Everything needs to be verbal so if you could remember that, that would be great.

If you don't understand a question, please let me know. I'd rather you give us an answer with a question you understand. If you're not understanding what I am asking, I

will ask it a different way or maybe even break it down to smaller questions.

There may be or probably will be some objections on the record placed by plaintiff's counsel which is the norm, but I do ask you to provide answers to those questions after the objection is put on the record.

And, last, if you do need a break, please let me know. There is no reason we can't take a break, be it a five-minute or ten-minute break for whatever needs you have. The only thing I ask is that if there is a question pending that you answer the question before we take the break, all right?

A. Yes. The only thing is I could hear the stenographer fine but you're kind of quiet and kind of go in and out, and I am at my max volume.

Q. Okay. I will try to keep my voice up.

A. Okay.

Q. But thanks, that's a good point. If I get cut off somewhere in a question or my voice fades for a reason and you're not quite sure of the

question, just let me know. I'd rather you hear the question than, you know, kind of guess where I was going with it, but I will try to keep my voice up. Thank you.

Dr. Leitch, are you licensed to practice medicine in the state of New York?

A. I am.

Q. How long have you been -- how long have you held that license?

A. Since 1996.

Q. At any time has that license ever been canceled or revoked or suspended?

A. It has not.

Q. Okay. And do you have any board certifications?

A. I am board-certified by the American Board of Neurology and Psychiatry.

Q. Any other certifications?

A. That's it.

Q. Okay. With respect to that one certification, has that ever been canceled, revoked, or suspended?

A. It has not.

Q. Okay. And what is your concentration in the medical field?
A. I am a neurologist.
Q. Where are you currently employed?
A. I have my own practice at the address I gave in North Tonawanda, and I am the chief of neurology at the Buffalo VA Medical Center. I am also a professor at the university, at University at Buffalo.
Q. Okay. And those three positions, how long have you held those positions?
A. My private practice in North Tonawanda I have had since 1999. The professorship at the university since 1996. I worked at the VA since 1996, and I have been the chief I think for about ten years.
Q. Okay. Have you ever provided medical services in a correctional facility?
A. I think I did back in the early 2000s. I -- I have been there for evaluations, but I think I also provided treatment either at Wende or Gowanda. I can't really remember, but there was a several-month period I covered for

somebody.

Q. Okay. So was that part of your job, providing service -- medical services at one of New York State's correctional facilities?

A. Well, at that time I was working for ECMC and that's the best I can remember. I remember going out there, but it was a long time ago. And of course the Erie County Medical Center has their lockup and I took care of patients in the lockup for -- for quite a few years, maybe from the late 90s through the mid 2000s.

Q. Did you ever do any work at Auburn Correctional Facility?

A. I don't -- I don't recall so. I don't think so.

Q. Okay. Now, I think you mentioned you might have gone to Wende Correctional Facility or Gowanda Correctional Facility. What -- if you recall, what particular services did you provide when you went there?

A. It was -- if I remember correctly, I remember going there. I don't know if I was just doing evaluations, but my vague memory is I was

doing neurology for a different doctor that had -- that was covering there. It was a brief time period. It was a long time ago. I don't really have the details. I could probably find out, but I don't have the details.

Q. And you say "brief time period," how long do you think you did that work?

A. I don't remember. I don't think -- I think they were only going once a month so it might have been just a few times I went for them.

Q. Okay. And you were providing neurological services?

A. Yes.

Q. Okay. And you think you said that was in the 90s?

A. Maybe the late 90s. I can't -- I mean, I can't completely remember. It was back when I worked at ECMC, but maybe they brought the patients to ECMC. I have a vague memory of it.

Q. Okay.

A. I was trying to be complete. Maybe I

should've just let it go, but I kind of remember it.

Q. Oh, that's fine. I appreciate that.

With respect to today's deposition, did you review any particular documents in particular to prepare for the deposition?

A. So I reviewed my report. I reviewed the -- some of the records that were given to me because there were a lot of records. Most of them are listed in my report. So I went through some, but not all of that. I did for the report, but for the preparation of this. And then I was given -- I may have gone through it before, too, but I was given reports by a Dr. Vapnek, a Dr. Valvo, and Dr. Knapp.

Q. Okay. So you took -- you reviewed those three reports in preparation for today?

A. Right, and the other things that I mentioned.

Q. Okay. Anything else that you reviewed?

A. No, just -- and I said some of all of the records I reviewed before.

Q. Okay. Now, has Matthew Raymond ever been a

patient of yours?
A. I saw him in my office.
Q. Okay. Outside the realm of you providing expert witness services in this case and meeting with Mr. Raymond for those purposes, has he ever been a patient of yours?
A. I only saw him the one time. I only saw him the one time. I didn't give him any treatment.
Q. And has any members of Mr. Raymond's family ever been a patient of yours?
A. Not that I am aware of.
Q. And did you know Mr. Raymond at all before agreeing to provide him with expert witness services in this case?
A. I did not.
Q. And did you know anyone from Mr. Raymond's family prior to agreeing to provide Mr. Raymond with expert witness services in this case?
A. I do not.
Q. Now, have you provided expert witness services in other cases in the past?

A. I have.
Q. Approximately how many times have you provided expert witness services?
A. Do you mean actually went to court?
Q. No, I mean, in any aspect from just reviewing documents or medical records to all the way to going to court for a trial. Any time you were hired and compensated to provide expert witness services. I am just kind of interested in how many times that was and you can give me an approximate number.
A. So you mean --
MS. ROSENFELD: Objection. Objection to the form. You can answer, Dr. Leitch. It's okay.
A. You mean just like preparing an independent medical exam; is that what you're saying?
Q. Anything that was related to you being compensated as an expert witness.
A. Okay. So --
MS. ROSENFELD: One second, Dr. Leitch, please. Objection to the form. You can answer.

A. So I believe I started this -- doing some of this in about 1999 or 2000. I do -- I mean, of course it's increased and decreased over the years but I do at least one -- I probably do at least one a week since I began.

Q. Okay. And you said at least one a week starting in 2000?

A. Right. I am giving variability. For instance, like COVID, I didn't do anything for a year, and then I might have done a little more afterwards. And it's probably waxed and waned depending on what other responsibilities I had, but I think it would average out to be about once a week.

Q. Okay. Let me put it this way: Approximately how many expert reports have you prepared as a medical doctor?

A. I -- I don't know. I mean, I gave the estimate based on the 20 years of how often I did them. Beyond that, I'd have to just get a calculator and figure it out.

Q. Okay. Are you able to give an approximation like over a hundred, under a hundred?

A. Oh, definitely over a hundred.
Q. Okay. And how many times have you appeared in court to provide testimony as an expert witness?
A. So there are years where I don't go to court at all and then years where I may go two or three times. So, again, I began going to court probably in about 2000 so even if we do once a year might be an average because sometimes, as I said, it might be a couple years I don't go I think that would be a reasonable -- so I probably would have gone at least once a year over all those years.
Q. Okay. Just so I get a number to it, would you say approximately 15 to 20 times?
A. Oh, no, more than that.
Q. Okay.
A. Right? I mean, we're talking about how many years? 2000, so that that's at least 22 times.
Q. So maybe between 20 and 30 times?
A. In my mind it would be more than that. That could be wrong. I would think I have been to

court -- I would think I have been to court about 50 times so maybe my estimate is not very good. I don't know, maybe not, but I think it -- you know, they're such long, disturbing events they seem to stick in your mind as very frequent so maybe between 25 and 45.

Q. Okay. Thank you.

Now, all the times that you have provided expert witness services in the past, has that always been in the field of neurology?

A. Yes.

Q. Okay. And all of the times that you provided expert witness services in the past, has that always been on behalf of a plaintiff who was injured?

A. No.

Q. Okay. Have you provided services to defendants in cases?

A. That's correct.

MR. MACKEY: If we can go off the record for a moment.

(An off-the-record discussion was held.)

BY MR. MACKEY:

Q. Dr. Leitch, have you ever provided expert witness services for state employees?

A. Meaning they have been injured by the state or they were -- I don't know what you mean.

Q. Well, all right, let me maybe narrow it down.

A. I don't know who all the people worked for.

Q. Let me ask you this: Have you ever provided expert witness services for the Department of Corrections being a defendant in the lawsuit?

A. So I've done prison cases before. I don't know whose side I was on, if that's what you mean, who hired me.

Q. And when you say "prison cases," what do you mean by that?

A. I just mean the person either was in prison at some point, like they could have been -- I could have seen them for a car accident and they subsequently got incarcerated, or it could be they were injured while incarcerated, or -- there was a couple different cases but I

have been plaintiff and defense in those. Not all of them had anything to do with being in prison. It's just where the person was.

Q. Okay. Now obviously with this case you're providing expert witness services for an inmate whose alleged to have been injured by corrections officers.

A. Could I just clarify my other statement? I also wouldn't even know if they were like state or federal. I don't know --

Q. Okay.

A. I don't know. Yeah, that's -- sorry.

Q. Okay, I understand.

A. I didn't mean to interrupt, but I was thinking I don't really know what the difference is.

Q. That's fine.

So what I was saying is with this particular case you're providing expert witness services for an inmate who alleges he was injured by corrections officers at the Auburn facility. Have you in the past provided expert witness services for inmates who have been injured by corrections officers?

A. I believe I have on a few occasions.
Q. Okay. Are you able to give an approximate number of how many times you have done that?
A. I believe I did it once where I was asked by the defense and once when I was asked on the plaintiff.

Were you asking me specifically about state or just any prison thing.

Q. Any prison.
A. There might have been three and they would have been two the defense asked me and one that plaintiff asked me.
Q. Okay. Do you remember what the most recent one was?
A. I -- who the person was?
Q. Like how recent? What was the last time you did or you provided services for an inmate who was injured while being incarcerated?
A. So like in the last five years I believe I have been to a prison three times. I believe once for a plaintiff, once for a defense, and then I think one was the person just was in prison. I don't think -- I think they were

injured before.
Q. Okay.
A. I don't remember what side -- what side hired me for that one.
Q. Now, have you ever provided expert witness services for the law firm of Lipsitz Green Scime Cambria?
A. I believe I have.
Q. Okay. Do you know how many times?
A. I do not.
Q. Do you recall when the most recent time was?
A. I don't recall.
Q. Okay. Do you recall the attorney you worked with?
A. No.
Q. How many times, if you know, that you have dealt with Lipsitz Green?
A. I don't recall. The only reason I recall is because often you have to put the -- not the attorney's name but you put the name of the firm on the report, and that's the only reason I recall the name of the firm.
Q. Okay. And do you recollect at all if you were

representing a plaintiff or a defendant -- or providing services for a plaintiff or defendant in those cases?

A. I do not. I also think there were a couple occasions where I had a patient who was suing for something and used that firm.

Q. Okay.

A. So, I wasn't really requested by the firm, but I was involved with them.

Q. Oh, okay.

A. It was my patient kind of thing.

Q. The person was already a pre-existing patient of yours?

A. That's correct.

Q. Okay. Now, have you ever provided deposition testimony -- well, strike that.

Other than today, how many times have you provided deposition prior to today?

A. Depositions? I think I have only done like four or five depositions, maybe not even that much, three or four.

Q. Okay. And were they always -- were you always appearing as an expert witness for those

depositions?
A. Yes.
Q. And have you authored any publications?
A. Yes, but it was a long time ago. I'd have to look at my CV to even say what it was.
Q. Okay. Any recollection at all of what the topic was?
A. I believe it was -- it was so long ago. It was an astrocyte model, and there was one on stroke. Those are the only two I can think of.
Q. What was the first one? I didn't hear that.
A. Astrocytes. It's a type of brain cell.
Q. Okay. And how long ago do you think you --
A. Oh, this was -- I would think late 90s. It was like the end of my training. I am not a researcher.
Q. Okay. Have you ever done any publications regarding neurogenic bladder?
A. No.
Q. Have you ever done any independent research on the condition of neurogenic bladder?
A. What would you mean by independent researcher?

Where I used my patients as subjects?

Q. Well, any type of research I guess really. Have you ever done any research to really learn more about the condition of neurogenic bladder?

A. Oh, to read on it? I keep up to date on all that, and neurogenic bladder is a topic that comes up on a regular basis in our review journals. Like every two to three years they come up, so every two to three years when it comes up I review it all again.

Q. Okay. Have you ever done any type of -- with respect to neurogenic bladder, have you ever done any type of research in an attempt to possibly create a new or different way of treating the condition?

A. No. As I said, I am not a researcher. At the VA, as you can imagine, we have many men with many bladder problems that we see so a good part of our practice involves neurogenic bladder due to a variety of neurologic causes.

Q. Okay. So it's safe to say you have a good number of patients that they may have that

neurogenic bladder condition?

A. Yes, I would -- I have some in my private practice as well, but at the VA it really is a pretty large population that we're either screening for it, they don't really know the cause of the bladder, so we're investigating for it. We're treating it, monitoring it, that kind of thing, both as outpatients and inpatients that might more acutely present with neurogenic bladder.

Q. Sorry, I didn't mean to interrupt you.

A. That's okay.

Q. Have you ever diagnosed a person with neurogenic bladder?

A. Correct. That's just part of like -- daily part of the neurologic job that I have.

Q. Okay. Now, I know earlier you mentioned you had testified at trial on numerous -- that you had testified at a trial on numerous occasions. Has there ever been an instance where you were not qualified as an expert witness by a judge?

A. Not that I know of.

Q. Dr. Leitch, do you have any felony convictions?
A. I do not.
Q. Do you have any misdemeanor convictions?
A. I do not.
Q. Have you ever been disciplined for actions you have taken as a medical doctor?
A. I have not.
Q. Have you ever been sanctioned by the ethics board?
A. I have not.
Q. Have you ever been sued for medical malpractice?
A. I have not.
Q. Have you ever had a court decide to give your medical opinion little weight?
A. I -- I am not even sure what that means. I don't know what you mean.
Q. Have you ever had a court decide that your opinion was not supported by the facts of the case?
MS. ROSENFELD: Objection to the form. You can answer.

A. Not that I know of. I mean, I don't know anything either way. No one has ever talked about any of that to me.
Q. What do you mean by that?
A. Well, I testify and then I leave, you know what I am saying. I don't have like -- I often don't have any relationship with the lawyer to discuss that, so I have never -- I have never been told anything like that.
Q. Okay. Now, I think you mentioned earlier you at one point physically examined Mr. Raymond, correct?
A. That's correct.
Q. Do you remember when that was?
A. August 25th, 2020.
Q. And where did that exam take place?
A. At my office in North Tonawanda.
Q. And you examined Mr. Raymond just the one time, correct?
A. That's correct.
Q. Who was present other than yourself and Mr. Raymond?
A. His wife, Ms. Michelle Raymond.

Q. Anyone else present?
A. No.
Q. Did you talk with Michelle Raymond at all about Matthew's -- or Mr. Raymond's condition?
A. She was involved -- the section I report the history of the present illness, she was -- she spoke but I didn't speak to her separate from Mr. Raymond, just from when she was in the office.
Q. So is it fair to say when you were obtaining information from Mr. Raymond you basically were getting information from both he and his wife?
MS. ROSENFELD: Objection to the form.
A. Everything I wrote down was directly from Mr. Raymond. So if she said anything, I would have verified it with her -- with him. Otherwise I would write in there "Mrs. Raymond said," and I don't think that's anywhere.
Q. Okay. Okay. Approximately how long did the examination take?
A. We were in there 70 minutes, 7-0.
Q. What type of -- or what tests did you perform

on Mr. Raymond during his examination?

A. So I did a full neurologic exam. I can explain what that is if you want me to or --

Q. Yes, please.

A. Sure. So it's a general physical exam, and then the next thing I look at is mental status which would involve level of arousal, orientation, attention, concentration, short- and long-term memory, cognition, fund of knowledge, mood, affect.

And then after the mental status it's cranial nerves, and those are the nerves that are the direct extension of the brain. So there is 12 of them and so that would involve vision, visual field, movements of the eyes, sensation and movement of the face, the tongue, the uvula, trapezius and sternocleidomastoid, just sort of gross testing of the hearing. That's all for cranial nerves.

And then motor I look at power, meaning strength; tone, looking at whether it's increased or decreased; bulk, which we think

of as somebody who works out a lot getting hypertrophy. Someone who doesn't move their arm for whatever reason, their extremity, they get atrophy. So I look at power, tone, and bulk and all of the muscles of the upper and lower extremity. That's done usually by confrontation, meaning I would tell them to raise their arms like this and then I would push down and do that for all the muscles. Coordination, observation of the muscles because there is a number of abnormalities you can see just with observation. Walking, toe and heel walking.

And then I do sensory which is broken down into the different sensory modalities, pinprick which I don't actually use a pin for but it's called pinprick, light touch, vibration, position sense, and then the reflexes in the upper and lower extremities. And then in addition I do range of motion, straight leg raising. I think that's everything I did on him, and that's all documented.

Q. I am sorry?
A. And that's all documented in the report.
Q. Okay. Did you do any -- during the examination of Mr. Raymond, did you test to determine whether he provides Babinski reflex?
A. Yes, that's -- under deep tendon reflexes where it says plantar response, that's just another word for the Babinski. They're the same thing.
Q. You mention it as deep tendon? I'm sorry.
A. Deep tendon reflexes. You think of the knee jerk, but there's reflexes -- there is three in the arm and two in the leg, the knee and the ankle actually.
Q. Okay. So deep tendon reflexes is what you're referring to as testing for the Babinski reflexes?
A. No, no, no, the plantar response. I meant under the category deep tendon reflexes.
Q. Oh, okay.
A. You will see it says "plantar response was downgoing," that's the Babinski.
Q. And during your examination of Mr. Raymond,

did you test and determine whether he had any lower extremity spasticity?

A. I did.

Q. And where is that identified in your report?

A. Under motor, where it says "power, tone," tone is the -- is whether the person is spastic, rigid, or normal or decreased tone. He was normal in the upper and lower extremities.

Q. Okay. So that test came back negative?

A. That's correct.

Q. And with the test we were just discussing, the -- I think you called it the plantar response?

A. Yeah, the Babinski or the plantar response.

Q. Did that come back negative?

A. That's right, it did. It came back as normal.

Q. When you spoke with -- let me back up.

I realize you met with Mr. Raymond one time. Have you ever spoken to him otherwise, or was that the only time you have ever spoken with him?

A. I believe that was the only time.

Q. Okay. Did Mr. Raymond describe to you the

physical assault that he alleged happened on September 14th of 2016?

A. So he stated he was assaulted on 9/14/2016. He stated that he was struck in the head and neck. He said since the -- oh, he told me his other problems.

Q. Did Mr. Raymond describe how he was hit in the head and neck? And what I mean by that, was it with fist? Was it with objects? Was it open, closed fist? You know, did he give any description on those?

A. He stated --

MS. ROSENFELD: Objection to the form.

A. He only stated what I repeated but he was very upset talking about it, so it wasn't something I would probably press him on.

Q. He was very what? I'm sorry.

A. Upset.

Q. Upset.

A. Very upset when he had to sort of relive it, so all he wanted to say was he was struck in the head and the neck.

Q. Okay. So he didn't really go into much detail

about it?

MS. ROSENFELD: Objection to the form.

A. No.

Q. Did Mr. Raymond identify the names of any individuals who he claims assaulted him?

A. We didn't discuss that. We just talked about the -- his medical problems. I didn't ask him anything like that.

Q. Did he -- did Mr. Raymond physically show you where on his body he was hit?

A. All he did was state that he was struck on the head and the neck. And as I said, I didn't press him.

Q. Okay. So he didn't show any particular areas of his body where he was actually hit?

A. I didn't ask him to, and he did not offer.

Q. Now, did Mr. -- again, with respect to the alleged assault of September 14th, 2016, did Mr. Raymond state to you or tell you what injuries he sustained immediately after the alleged assault?

A. What he stated was since the assault he had memory problems, had to write everything down,

memory problems increased, that he was forgetful, that he had personality changes, that he had sleep problems, headache, lightheadedness, wooziness, and then discussed the bladder issues.

Q. Okay. Did he specify at all -- I guess what I am more interested in what immediate injuries he claimed to have suffered the day of being allegedly attacked? I understand he may have explained to you other symptoms that he experienced later on, but I am more interested in if he described to you what injuries he sustained immediately after the assault.

MS. ROSENFELD: Objection to the form.

A. Well, as I said before, he was very upset discussing this and this is sort of a common thing at the VA where we discuss incidents that occurred in the service, and many of the people similar to Mr. Raymond have posttraumatic stress and we really wouldn't -- I wouldn't really keep pressing him about the actual events because I am -- the events of that day was too upsetting and often that's

the end of the exam and you don't get any further, and that's where I felt we were heading if we kept talking about reliving that day.

Q. Okay.

A. I figured I -- I mean, I think I can get that from what was documented around the time of the incident, not at some point later, especially since it was causing him a lot of distress.

Q. Okay. I understand. Is it fair to say then that Mr. Raymond when you met with him did not go into any detailed description of what injuries he sustained that day?

MS. ROSENFELD: Objection.

A. Yeah, he appeared --

MS. ROSENFELD: Objection to the form.

A. It appeared that he could not.

Q. He was just too upset to do that?

A. That's correct.

Q. Okay. Did Mr. Raymond at all explain to you when he first started having an inability to urinate?

A. Only that it started after the accident.
Q. Okay. Did he identify when after the accident?
A. It appeared that he could not based on being upset, but also his memory of that time period didn't seem particularly clear, which is often what happens with people with head injuries.
Q. Okay. So -- strike that.
Did Mr. Raymond identify where on his body he experienced pain because of the alleged assault?
A. As I stated just what's in my report he stated he was struck in the head and the neck, and beyond that he appeared both too upset and having poor memory of the immediate events.
Q. Okay. Now you mentioned memory loss. Mr. Raymond told you he had memory loss?
A. Well, he stated that his memory has not been as good since the incident.
Q. Okay. Did he describe to you when he started having issues with his memory?
A. That it began after the incident.
Q. Okay. Did he specify what he meant by after?

A. He did not.
Q. And I understand that Mr. Raymond told you he experienced painful urination, correct?
A. What he told me is that he used a suprapubic catheter, has pain in the abdominal area, the catheter is painful, frequent bladder, urinary, and kidney infections. Those are his actual words.
Q. Okay. Did he ever tell you, to your recollection, that he experienced pain while urinating?
A. The only thing I recall is just what I wrote down in this instance.
Q. Do you have your report in front of you?
A. I do.
Q. Okay. I will put it up on the screen so it's available for everyone, but feel free to just look at the one you have in front of you.
Dr. Leitch, what I put on the screen for everyone else is what we have marked as Exhibit 10 for today's deposition, which is your report. Do you recognize this document?
MS. ROSENFELD: I don't think you have

Q. Did you -- did Mr. Raymond or any of the medical records you reviewed indicate that he experienced headaches before the alleged assault because of the seizures he is experiencing?

A. No, that's what I was saying. I don't see any complaints of headaches. And there is a number of times he is seen for seizures, but I don't see any significant headache associated with those seizures either.

Q. Okay. Next paragraph which I am highlighting references that Mr. Raymond stated to you that since the incident he has feelings of lightheadedness and wooziness. Do you see that?

A. That's correct.

Q. Okay. Were those his words, your words? How did he describe his feelings?

A. I believe he said that he felt lightheaded. And then I usually go on to ask is it a spinning sensation, is it a woozy sensation, is it unsteadiness, so those are added in. He denied spinning because I would have asked him

that specifically. He denied feeling unsteady -- I am sorry, he said he feels unsteady but those I would have asked him. I believe he just said he felt lightheaded. So woozy, spinning, unsteady was just trying to define what he meant.

Q. Okay. And what is your -- when you use the word "wooziness," what do you mean by that?

A. So this feeling of woozy would be sort of wobbly, unsteady. We think of it as more of a common term. Different than spinning sensation because sometimes when people are lightheaded they're really describing spinning which refers to vertigo which is a different set of problems. So woozy, more like lightheaded woozy where you sort of -- sometimes when people stand up and they just feel a little off, that would be that woozy sensation, that feeling kind of off.

Q. Okay. Now feelings of lightheadedness and wooziness, would that -- is that a common symptom of migraine headaches?

A. If it occurs during the headache, but he has

this outside of the headache.

Q. Okay. So he doesn't experience lightheadedness while having a headache?

A. He may, but what I am talking about in this paragraph is a total separate issue. He has this feeling -- whether he is in the middle of a headache or not, this feeling of lightheadedness and wooziness and unsteadiness with walking.

Q. Okay. And this description of feeling unsteady with walking, was that Mr. Raymond's description or is that more your terms, terminology?

A. I believe I just asked him "do you feel unsteady when you walk" and he said yes.

Q. Okay. Did you notice Mr. Raymond appearing unsteady while walking?

A. So in the physical exam under gait, I described him as being wide based and that usually occurs when people have balance issues, and not consciously, but their legs -- their stance and their way of walking has the legs spread out a little bit.

Q. Scrolling onto page 3 so you're referring to this entry?
A. Yep, yes.
Q. That's -- okay.
MS. ROSENFELD: Pat, would you mind just trying to make -- I don't know if it's possible, just make your screen even bigger? I don't know, is it possible? I just can't really see it. I mean, I have my copy open too.
MR. MACKEY: I increased it. Did that help?
MS. ROSENFELD: No, not really. I will just use my copy. As long as the witness can see what she needs, I am fine.
THE WITNESS: Yeah, I am actually good with both.
MS. ROSENFELD: Okay, great.
THE WITNESS: Maybe a little bit smaller.

BY MR. MACKEY:
Q. So just to go back on your comment about his

walking, you mentioned that he has -- when you observed Mr. Raymond walking, his legs are wide set apart; is that what you saw?

A. That's correct, wider than normal.

Q. Are you able to describe how much wider than normal?

A. No, I -- there is no real measurement for that. It's a little different depending on the height and the size, the build of the individuals.

Q. Okay. So your opinion is that someone with a wide gait generally has some unsteadiness walking?

A. So a wide-based gait would be an abnormal gait. It could be due to a number of things, but to be wide based would be an abnormal finding.

Q. Did you ask Mr. Raymond whether that, his gait that you observed, had changed at all since the alleged incident?

A. Well, he stated he felt unsteady just since the incident. He felt unsteady with walking.

Q. Okay. Did he identify exactly or specifically

when he started experiencing an unsteady walking?

A. Just after the incident. This -- that kind of response is typical with anybody of a head injury. They often don't know the exact moment that they realized their gait was off.

Q. I am going to go back to page 2 of your report. At any time did Mr. Raymond mention to you that in the past he was diagnosed with suffering depression?

A. He did not describe depression, but I was aware of it from his medical records.

Q. Okay. Upon your review of the records, do you agree that the depression that Mr. Raymond experienced, that was occurring prior to the alleged incident of September 14th, 2016, correct?

A. That's correct. He was seen at Central New York Psychiatric Center.

Q. Let's take another look at your report which is on the screen. This is page 3 at the top. There is a reference to medical history and a head injury in 2012. Do you see that?

A. Yes.
Q. Did you have any discussions with Mr. Raymond about this particular injury in 2012?
A. Yes, the history came from him. This is his part of it.
Q. Okay. So your entry on page 3 of the report, that's pursuant to statements provided to you by Mr. Raymond?
A. Correct.
Q. Okay. So he mentions "he was hospitalized for two to three weeks." Did he, Mr. Raymond, identify why he was in the hospital for that length of time?
A. He said he was struck in the head. He developed -- he said he was struck in the head and he was hospitalized for it for two to three weeks. That's what he said.
Q. Okay. Did he -- did Mr. Raymond explain to you why he was at the hospital for such a long period of time?
MS. ROSENFELD: Objection to the form.
A. As I said, he said he was struck in the head and then he was hospitalized for two to three

weeks.

Q. Okay. I guess I am just wondering if he identified more specifically why there was a need for him to be at the hospital for two to three weeks. I am just wondering if he specified more about what injuries he suffered.

MS. ROSENFELD: Objection to the form.

A. Just what I wrote in the report.

Q. Okay. Now later on in that portion of the report he -- it looks like Mr. Raymond said he developed seizures. Did Mr. Raymond identify that he started experiencing seizures after being hit in the head with the beam?

A. That's correct.

Q. Okay. And did he explain to you what exactly those seizures are?

A. No, just that he had seizures.

Q. Okay. Were you able to determine on your own by speaking with Mr. Raymond and reviewing his medical records why he continues to experience seizures since the incident of 2012?

A. I didn't get that from Mr. Raymond. I am not

so sure how much he understands, but I know on January 25th, 2014, his EEG was active, showed bifrontal relatively frequent sharp activity which is consistent with epilepsy.

Q. Okay. Is it your understanding that these seizures are epileptic seizures?

A. The words are kind of interchangeable.

Q. I am sorry?

A. The words are interchangeable.

Q. What do you mean by that?

A. Well, epilepsy is sort of the overall term and then there are different types of seizures.

Q. Okay. Are you aware of what type of seizures Mr. Raymond experiences?

A. I know that he has generalized seizures. If there's a focal onset or if it just comes generalized, I am not sure. I think they're just generalized seizures as per that EEG, but I am not entirely sure whether it's focal and then generalizes or it's just generalized.

Q. Okay. Later in that particular paragraph, Mr. Raymond appears that he said that "his seizures are much worse since the 2016

incident."

A. That's correct.

Q. Now, is it common for seizures to increase after someone has injuries to their head?

A. It can occur. It can have an increase in seizures.

Q. Okay. And he said they were "worse since the 2016 incident." Do you know what he meant by worse? And what I mean by that, does he mean they last longer, they occur more often? What did he mean by worse?

A. It's my understanding he had increase in severity and frequency.

Q. The next entry is social history and it mentions that "Mr. Raymond stated that he is working as a union bricklayer, master welder, and equipment operator." Now are those jobs that Mr. Raymond was doing at the time he met with you?

A. That was my understanding.

Q. And did he describe to you how often he was working?

A. No.

Q. Okay. So he didn't say if he was full time or part time or anything like that?
A. No.
Q. And did Mr. Raymond mention, you know, he works X amount of hours a week? Did he say anything like that?
A. He did not.
Q. Okay. Did Mr. Raymond mention that he -- because of his condition, his neurogenic bladder, that he has difficulty working as a union bricklayer, master welder, and equipment operator?
A. So I don't know if we talked about it directly with just work, but what he -- the subject that sort of went on throughout the examination was that all of his life is more difficult because of the urinary problems.
Q. Okay. But he didn't go into detail about how it makes his work more difficult?
A. I would -- my feeling was that he felt everything was more difficult. We'd have to go through what wasn't more difficult, meaning everything really was the issues that -- there

was nothing he mentioned that wasn't worsened by the urinary symptoms. It would be hard for me to identify what he felt was not affected.

Q. Now, did he ever say to you -- did Mr. Raymond ever state to you he would have to stop working because of the neurogenic bladder condition?

A. We didn't talk about that.

Q. The next entry is about medications. There is a reference to Keppra. Are you familiar with that medication?

A. Yes.

Q. What exactly is that for?

A. It's an antiepileptic.

Q. Okay. And the next one is, I am not sure if I am going to pronounce this correctly, zonisamide?

A. Yes, also an antiepileptic.

Q. Okay. So is Mr. Raymond taking any type of medication for his current condition of the neurogenic bladder?

A. He didn't have his medication list. These are the only two that I could work my way out from

him. I don't -- he didn't know his medications so these I could find in the records and I said "are you still taking those medications" and he gave me an affirmative.

Q. Okay. Did Mr. Raymond state that he was taking some sort of medication for his neurogenic bladder?

A. He didn't know his medication.

Q. I understand that, but he did indicate that he was taking some medication?

A. Again --

MS. ROSENFELD: Objection to the form.

A. Again, he didn't know his medication.

Q. Okay. I guess maybe when you say "he didn't know his medication," do you mean he didn't know the name of the medication?

A. He didn't know the name. He didn't know what the medications were that he was on for. He didn't seem to have a real -- he didn't seem to have much of an understanding of his medications that I could tell.

Q. Okay. So is it fair to say that Mr. Raymond, at least when he met with you, he wasn't aware

if he was taking medication for his neurogenic bladder?

MS. ROSENFELD: Objection to the form.

A. He just didn't know what medications he was on. The only ones I found from the records were Keppra and zonisamide so I asked him specifically about those.

Q. Okay. The next entry is about your physical examination of Mr. Raymond. Did you find -- the entry that you put in your report, is there any reference to anything abnormal with his physical examination?

A. So he had decreased attention and concentration, and this was manifested by just repeatedly having to redirect him to what the question was to get him to focus on the answer, sometimes repeating myself over and over.

Q. Okay. Well, let's back up because I was more looking at the part I had highlighted, the physical examination. I was just wondering if you're making any reference to any abnormal findings in your description of the physical

examination.

A. No, there was no abnormality there.

Q. Okay. So with respect to the mental status you mentioned that he had decreased attention and concentration; is that something you observed yourself, or is that something Mr. Raymond told you?

A. No, these are my -- these are observations.

Q. Okay. And what did you observe to determine that he had decreased attention and concentration?

A. As I said, repeatedly having to ask him the same questions, repeatedly have to refocus his attention to what we were doing.

Q. Okay. And did you ask Mr. Raymond if he had those type of problems in the past prior to the incident?

A. As I said before, he told me he never had problems with his memory or understanding before this, with his memory.

Q. Okay. Now the next entry says "normal short- and long-term memory." What do you mean by that?

A. So he was able to explain to me -- the only things I can really verify are things in the records, so he was able to explain to me things from the records that was verifiable so I found that normal. If he has other more subtle things wrong, that's not the level of testing I can do. But I asked him things about what occurred after the incident and later with his treatment, and he seemed to remember that.

I mean, I guess you could say -- it's hard to know whether not knowing any of your medication is a memory problem. It could just be he never had paid attention to it so he didn't -- he can't have -- if his attention is decreased, then it never makes its way into memory.

Q. Okay. You mentioned here that Mr. Raymond has "normal short- and long-term memory." But if we scroll up to page 1 of the report, it says Mr. Raymond complains of memory problems. Do those seem to contradict each other?

A. Well, he complains of memory problems but on

exam I thought it was more his attention and concentration were the issues. So if you don't attend and you don't concentrate, you don't get it into your memory. But when I asked him concrete things I could verify, it seemed he could remember things.

Q. Okay. So your opinion he has a short- and long-term memory that falls within the realm of normal?

A. Correct. I think his issues are with attention and concentration. I mean, I am not a neuropsychologist but that's where I thought his real issues were.

Q. Okay. The next section I highlighted was cranial nerves, and you provided some information in your report about that particular topic. Did you find anything abnormal with respect to Mr. Raymond's cranial nerves?

A. I did not.

Q. The next section is with respect to motor. Did you find anything abnormal regarding Mr. Raymond's motor skills?

A. The only thing I found was the wide-based gait and he couldn't toe-and-heel walk consistent with balance problems.
Q. Okay. So I see that, there's a reference, "unable to perform toe-and-heel walk." What does that indicate if someone is unable to perform a toe-and-heel walk?
A. Another finding that would be consistent with balance.
Q. Okay. Having a lack of balance or I think you referred to it earlier as unsteady with walking, is that a symptom of neurogenic bladder?
A. No, it would be a symptom of the head injury.
Q. Then there is an entry about sensory. Was anything -- did you find anything abnormal about Mr. Raymond's sensory?
A. No.
Q. Let me go back. When you mentioned "unable to perform toe-and-heel walk," could you explain a little bit more what does that mean? What did you observe when you tried to do that?
A. So I demonstrate and I go up on my toes and I

walk and I asked him to do it, and he -- he couldn't do it. I mean, if I forced him, there is the concern of falling. He could not walk on his toes in any way that would be safe, and he was not able to walk on his heels in any way that would be safe so we halt at that point.

Q. Okay. So if he tried to walk on his toe or tried to walk on his heel, he just couldn't do it?

A. That's correct.

Q. Okay. And does that mean he would just kind of fall to the side, like he just wasn't able to move forward doing that?

A. Just too unsteady. I don't think he even took a step. I think he went up on his toes, too unsteady. Not that he couldn't support -- it wasn't a strength issue. It was just a balance issue.

Q. Okay. Now, I know we discussed his wide-based gait earlier. When Mr. Raymond walks, does he -- to your observation does he appear to be unsteady?

A. Well, that would be what a wide-based gait is. The base widens out to decrease the unsteadiness, but the appearance of the gait is still abnormal.

Q. Okay. The next page is page 4 of your report and, again, this is Exhibit 10 for today's deposition. Here at the top of the page there is a reference to deep tendon reflexes, and I think we talked about this earlier a little bit because it makes a reference to "plantar response was downgoing bilaterally." That I think you explained was the same as a Babinski reflex; is that correct?

A. Correct.

Q. And you said he -- nothing was abnormal about that, correct?

A. Correct.

Q. Now with respect to the other portions of the section, the deep tendon reflexes, did you observe anything abnormal regarding Mr. Raymond?

A. No abnormality.

Q. The next section is range of motion which I

just highlighted, and within this section did you observe anything abnormal with respect to Matthew Raymond?

A. I did not.

Q. So moving down on page 4 of your report, there is an entry regarding September 13th of 2016 which is the day before the alleged incident, the alleged assault, and you put an entry in there regarding that particular date. The information you included, did that come from Mr. Raymond or is that something you just gathered from the records that you received?

A. All of this section is just from the records.

Q. Okay. Did you have any discussion with Mr. Raymond about this seizure that he had on September 13th of 2016?

A. He didn't even describe the seizure. All he said that he was assaulted on September 14th, 2016. As I told you, talking about it was very upsetting to him.

Q. Okay. I am actually talking about the seizure he had on September 13th, the day before. Did you have any discussions with Mr. Raymond

about that?
A. No, no, I said just -- the only thing from that time period was just the statement that he was assaulted.
Q. Okay. Now within that paragraph regarding September 13th of 2016, you mention that Mr. Raymond complains of neck pain and headache. Do you see that? I highlighted it for you on the screen.
A. That's correct.
Q. Okay. Did you have any discussions with Mr. Raymond about complaints of neck pain and headache from what happened on September 13th?
A. We did not.
Q. Did you ask him at all about what happened on September 13th of 2016?
A. As I --
MS. ROSENFELD: Objection to form.
A. I made attempts initially to discuss in detail that whole time period, but he would become just too upset.
Q. Okay. Well, I want to differentiate the two things, the two dates, because I understand

what you're saying about September 14th where he claims he was assaulted, and I know you said earlier that he was reluctant to talk about that, but I am really isolating my questions on September 13th when he had a seizure in his cell. I am wondering if you had any discussions with Mr. Raymond about that particular seizure in the cell.

A. So as I stated, Mr. -- we may isolate it but Mr. Raymond sees this as all one event, and every training I've had in posttraumatic stress if people are becoming upset reliving something you really can't put them through it. I mean, unless I was doing it -- unless I was doing it in some sort of psychological treatment, but I was not doing -- that was not my purpose, so I really can't push somebody to do that.

Q. No, I understand.

So just so it's clear, at no time during your meeting with Mr. Raymond did he explain to you about neck pain and headache that he experienced on September 13th; is that

correct?

A. He did not.

Q. And from what I understand, you didn't ask him any questions about that, correct?

A. Oh, I asked him about -- I asked him about all this time period, but I didn't get any answers.

Q. Okay. When you say you didn't get any answers, was he -- did he state to you "I don't want to talk about it," or was he just quiet?

A. Agitated, doesn't -- I don't know -- very agitated about the whole thing, very agitated, repeatedly becoming more upset.

Q. Okay. Now when you say "agitated," meaning in just his words but also like physically was he getting restless when you asked him questions about this time period?

MS. ROSENFELD: Objection to the form.

A. I would say he appeared upset, I mean, in the usual ways people appear upset.

Q. I am going to look at a couple other exhibits with you, Dr. Leitch.

So, Dr. Leitch, what's on the screen is what I marked for today's exhibit as Exhibit 3, and it's a report, Urgent Care Report, dated or for admission -- it looks like Mr. Raymond was admitted on September 13th of 2016. Do you see that?

A. Yes.

Q. Okay. In one part of that document, I am going to highlight it for you, there is a reference to "neck tenderness along C spine on palp. Cervical collar applied." What exactly is a cervical collar?

A. They don't describe what kind of cervical collar they used, but usually it's a soft cervical collar but maybe not. They might have put him in a hard collar, I don't know, just so that the neck doesn't move.

Q. Okay. What the is the reason to apply a cervical collar on someone?

A. Well, he had a seizure and a seizure is a pretty violent reaction to the body, and I think they want to be sure he didn't have an injury. They go on to do a CT of the cervical

spine so they probably want him stable until they clear his spine with the CT.

Q. And then earlier, I still have it highlighted, it says "neck tenderness along C spine on palp." What does that mean?

A. So they pressed on his neck, and he said it felt tender. He said he had tenderness and at that point, you know, I can't speak for them but the typical thing is at that point they're concerned that the seizure could have resulted in a cervical spine problem. They put the cervical collar on him to protect the cervical spine, and then they get a CT of the cervical spine which showed no abnormality. And at that point, I believe they take it off him.

Q. Okay. What is "C spine on palp," what does that mean?

A. They palpated. So there was tenderness along the cervical spine so for -- not to say it in words, so they take their hand and they just push along the bones in the back of the neck and he must have said, "ooh, that's uncomfortable." And at that point -- they

didn't say pain, they said tenderness so he must not have -- he must have felt some -- made some sort of negative comment about that so they put that cervical collar on him to be sure they don't make any anything worse, that he doesn't move until they do the CAT scan.

Q. Okay. So do you agree that related -- regarding this particular document and again it's dated November -- excuse me, September 13th of 2016, that there was some reference to Mr. Raymond experiencing tenderness with his neck?

A. Yeah, the type of tenderness that would be typical with any seizure, with any seizure where you're jerking. And to clear the cervical spine after a seizure is pretty much -- is pretty regular and they would -- even if you were found out in the field, you know, outside in the community, the first thing they do is put a collar on the person so that's the usual thing with a seizure.

Q. And why is that common to have some neck tenderness after a seizure?

A. A seizure is really violent shaking. So if you're standing, you stiffen, fall to the ground, and then very violent shaking. I don't know if you have ever seen one. They're actually kind of horrifying to actually watch, but the person violently shakes. People -- I mean, we just saw somebody in the VA today, a young guy, who fell to the ground and his seizure was so violent he broke his arm, so he fractured his arm. People often break their teeth. They can have injuries. So this is a typical thing. So they are like palpating everywhere to see if there is any injury. And that's why they put the collar on and subsequently do the cervical spine CT, and they determined there was no injury.

Q. Okay. So someone is capable of breaking a bone in their body during a seizure?

A. That's correct, depending how they fall, that type of thing, and he has been having seizures for years. I imagine this has been a regular occurrence that he has symptoms different places, and then they resolve and he goes back

to what he is doing.

Q. Okay. Is it possible for someone to break a bone in their neck during a seizure?

A. I think it could be possible, but we know he didn't because he had the cervical CAT scan.

Q. Okay. Well, on this particular day we know that you're saying he didn't?

A. Well, we know on every -- never -- the CT is normal so we know he never did.

Q. Okay.

A. We know he never had that happen to him.

Q. Okay. So when you say "never," are you referring to all dates prior to September 13th of 2016?

A. All dates prior to the CAT scan that occurred on September 13th, 2016, that's correct.

Q. Okay. So if he had a neck fracture before that date, even if it was years earlier, you would be able to notice that in a CT scan?

A. Oh, yes, yes.

Q. Okay. And how would you notice that in a CT scan?

A. The old fracture would show. It would just

show like old healed fracture. It might show that the disc has been all the way compressed. It could show the little endpoints of the disc or the bone have actually broken off.

Q. Okay. So Mr. Raymond is claiming that he was assaulted on September 14th of 2016, right?

A. Correct.

Q. Okay. And then he is also claiming that since that date he experiences seizures quite commonly, correct?

MS. ROSENFELD: Objection to the form.

A. You're saying his seizures increased after September 14th; is that what you're asking me?

Q. Not that they increase -- well, yeah, I mean, did he -- did Mr. Raymond say that his seizures increased after September 14th of 2016?

A. He said they increased in severity and frequency.

Q. Okay. So it's possible that Mr. Raymond could have fractured a bone in his neck during one of these seizures that happened after September 14th, 2016, correct?

A. No, because we have a CT from February 10th, 2020, that doesn't show any fractures.
Q. Okay. And do you have any -- well, let me ask you this: Could Mr. Raymond at any time having a seizure injured a bone somewhere else in his spine, not his neck but somewhere else?
A. Hypothetically or?
Q. Yeah, hypothetically.
A. I mean, anybody can have -- when you fall to the ground, you can have an injury anywhere. It's possible. I don't see any report of any of that.
Q. Okay.
A. I mean, the typical thing in the emergency department, they're always going to go for the neck because that's the most worrisome thing so they're going to be palpating and poking on the neck which is what they should do.
Q. Okay. So is it possible that Mr. Raymond after September 14th, 2016, may have injured a bone in his spine during a seizure?
A. I don't think --
MS. ROSENFELD: Objection to the form.

Go ahead.

A. I don't think it's possible because I have all the records and I don't see any signs of that, so I don't agree.

Q. Well, I am talking about theoretically is it possible that he could have.

MS. ROSENFELD: Objection.

A. It's honestly hard for me to answer a theoretical when I have the actual documents in front of me.

Q. All right. Well let's just say not Mr. Raymond specifically but can anyone, can a person who experiences a seizure, could they possibly fracture a bone in their spine during a seizure?

MS. ROSENFELD: Objection.

A. Well, I mean, the reason why it's so upsetting that his seizure disorder increased is because a seizure can lead to death. It can lead to bone breaking. It can lead to all sorts of terrible things. So anything can happen once somebody loses consciousness, drops from whatever position they're in and shakes

violently for a period of time.

Q. Okay. So someone can potentially fracture a bone in their spine during a seizure, correct?

A. Yes.

Q. Okay. One moment, please.

MS. ROSENFELD: When you're at a good point, can we take a five-minute break, please? No huge rush but when you can.

MR. MACKEY: This next exhibit is kind of associated with the previous one so after that one.

MS. ROSENFELD: Sure, that's fine.

Q. Okay. The next exhibit, Dr. Leitch, is marked as Exhibit 4 and I am scrolling to that right now. This is from the Imaging Department at the Auburn Community Hospital dated September 13th of 2016. Are you familiar with this document?

A. Yes.

Q. Okay. Did you review it before preparing your report?

A. Yes.

Q. Now this is a report on a CT scan of

Mr. Raymond's brain on September 13th of 2016, correct?

A. That's correct.

Q. Okay. So this was taken before the alleged incident of September 14th, correct?

A. Correct.

Q. Okay. Now, there is a reference to unwitnessed fall. Do you see that?

A. Yes.

Q. Okay. Did you have any discussions with Mr. Raymond about falling during his seizure on September 13th of 2016?

A. No, but you don't -- a person can't remember anything from the seizure. The loss of consciousness occurs just prior to the fall and then no memory probably is going to be present until quite some time afterwards but, again, I tried to talk about the time period but he was not able to and this I wouldn't expect him to know anyways.

Q. Okay. So I am highlighting a portion of the report and I will read it into the record. "Small 13 by 9 millimeter isodense lesion

within the right anterior para midline frontal bone just superior to the ethmoidal air sinuses the lesion is well-circumscribed with a," excuse me for this word, "sclerotic border." S-C-L-E-R-O-T-I-C border. What exactly is this describing?

A. Can you just scroll up a little bit more?

Q. Sure. I will make it bigger too.

A. To the next page -- so they talk about it here: Has a benign appearance, looks like a dermoid or epidermoid cyst. So it has the characteristics of what look like skin cells. It's just an incidental finding inside the bone, common.

Q. Okay. What do you mean by "common"?

A. You commonly find this on CTs or any sort of x-ray of the bone you find like a little -- it's a little cyst of like skin cells. It's a common finding.

Q. Now, could a lesion like this contribute to a person's neurogenic bladder condition?

A. No, this just like a little cyst in a bone.

Q. Okay.

A. The frontal bone is a big thick bone in the front of your head. It's just -- they just found this little cyst in there.
Q. Okay.
A. Benign, incidental finding.
Q. Okay. I am going to go back up to Exhibit 3 which we were talking about earlier which makes reference to the seizure and fall that Mr. Raymond experienced on September 13th of 2016.

Now, are you aware that the defendants in this lawsuit are alleging that they never assaulted Mr. Raymond?
A. I don't really know anything about the people that were involved in the incident. I only -- I only examined Mr. Raymond.
Q. Okay. So the defendants in this particular case allege that they never assaulted Mr. Raymond on September 14th of 2016, and the reason I tell you that is I am wondering if the alleged assault of September 14th, 2016, did not happen as the defendants claim, is it possible that the neck injury that Mr. Raymond

suffered on September 13th is the cause of his neurogenic bladder?

MS. ROSENFELD: Objection to the form.

A. I don't think he suffered a neck injury on September 13th. I think he was evaluated and found to have no injury.

Q. Okay. But he was experiencing some type of sensation in his neck, was he not?

A. Well, they poked on his neck and he said it felt tender.

Q. Okay.

A. I don't even know if that was related to the seizure. I think if you poked on my neck on certain days I would say "well that feels tender." So I agreed with them that they needed to poke and they needed to work it up, but the result was there was no injury to the neck.

Q. Okay. So the fact they mention the neck tenderness, that doesn't indicate there was some type of injury to his neck that day?

A. No. He said -- they pushed on it. He said it was tender, so they went on and got a CAT scan

which is a pretty -- you know, a pretty highly technical test. There was no abnormality, and then they were assured that there was no injury. He doesn't go on to get any more treatment or anything, or there is no follow-up care for the neck. It was simply he had the tenderness when they touched it and they worked it up, which is what typically is done, but he didn't have an injury to it. Just like they did a CT of his head, and there was no head injury on September 13th either. Those are the things you do just to make sure nothing else happened.

Q. Okay. So going back to Exhibit 4, the CT scan was of the brain, correct?

A. Correct.

Q. But it wasn't of the neck, correct?

A. No, there's a CT of the brain and CT of the neck. That's the brain, but there is a neck too.

Q. Okay. And you're saying that according to the CT of the neck there was no neck injury?

A. That's correct. Maybe it's the next thing

down. I don't know if you have it there or not.

Q. Well, let me ask you this: Could there have been an injury to his neck that did not show up on the CT scan?

A. There was --

MS. ROSENFELD: Objection. Objection to the form. Go ahead.

A. No. The examination, besides tenderness, there was no signs of cervical spine trauma and the CT of the cervical spine confirmed it so there was no injury to the neck. And there really wasn't even -- this isn't even hypothetical. He was evaluated to see if there was, which is pretty much always done in the emergency department, and there was no injury.

Q. Could an MRI or an x-ray have showed something that the CT scan did not?

A. Well, an MRI is a different sort of test. I am not -- I wasn't there but the CT is better for bones and for fracture and for trauma. The MRI is better if you're just evaluating a

spinal cord issue. They were looking more for trauma. So the CT was an adequate test.

Q. Right, but from what we understand, or at least your understanding, is that there was no MRI taken that day, correct?

A. No, the CT. And usually they do a CT and then if there is a question it goes on to MRI. It didn't even meet that threshold. This was an entirely normal CAT scan.

Q. Could an MRI that day have located an injury that didn't show up on the CT scan?

A. I don't believe there was anything on that CT that would suggest the MRI could find anything. I mean, that's the way the reasoning works.

Q. No, I understand that. I guess what my question is, is it possible for an MRI to show an injury that a CT scan would not?

A. Well, again, they --

MS. ROSENFELD: Objection to the form. Go ahead.

A. I think they're looking for different things. The MRI looks at -- CT is better for bone and

A. No.
Q. Okay. Have you ever had a patient with neurogenic bladder that was a result of use of -- continued use of illicit drugs?
A. No.
Q. And we also discussed about he had a traumatic brain injury in 2012 when he was hit by a beam, and I think you mentioned that here later on in this paragraph and you claim that that particular brain injury "would not have caused his neurogenic bladder condition to arise late in 2016." Why do you say that?
A. Well, if the head injury from 2012 had caused the neurogenic bladder, he would have had symptoms back in 2012, not four years later. Just the temporal course of a head injury resulting in bladder problems.
Q. Okay. So basically you're just saying that the neurogenic bladder would have happened much earlier, probably in 2012 if that particular brain injury was the cause?
MS. ROSENFELD: Objection.
A. Yeah, I don't know what -- I don't know

offhand what month it was in 2012, but you would expect the temporal course not to be delayed by four years as a normal function.

Q. The last page of your report and this is page 15, you wrote "9/14/16 assault on Mr. Raymond resulted in a second, separate traumatic brain injury." What do you mean by "second"?

A. The first traumatic brain injury was back in 2012.

Q. Okay. You're referring to when he was hit by the beam?

A. That's correct.

Q. Okay. I have some other documents I want to look at.

A. I just dropped my paper here. One second.

Go on. I am sorry.

Q. That's all right.

So I am looking at -- this document is Exhibit 2 from today's deposition, and it's a document from Kenmore Mercy Hospital, has a date of September 10th, 2014, so a little about two years before the alleged incident of September 14th, 2016, and this is a visit to

the hospital by Mr. Raymond and he states that he "had an object fall on his head in February." It doesn't mention the year but maybe he is referring to February of 2014.

Did Mr. Raymond discuss anything about suffering a head injury in February of 2014?

A. He did not.

Q. And then he mentions about the "past few days having trouble remembering certain events that happened earlier in the day." Do you see that?

A. Yes.

Q. Okay. Do you agree then that this particular medical record makes reference to some memory problems that Mr. Raymond was experiencing over two years before the alleged incident of September 14th, 2016?

MS. ROSENFELD: Objection.

A. Yes.

Q. The second page of Exhibit 2, again, this is from June 10th of 2014, there is a reference to "while attempting to discharge the patient, the patient reports that he is concerned that

he has been unable to urinate regularly, and when he does urinate the urinate the urine is dark." Do you see this?

A. Yes.

Q. Okay. Do you agree that this document from 2014 makes reference to Mr. Raymond having problems urinating --

A. Yes.

Q. -- back then?

Did Mr. Raymond mention that he had problems -- when you met with Mr. Raymond, did he mention to you that he had experienced problems urinating in 2014?

A. He did not.

Q. Did you ask him if he ever had any problems urinating prior to September 14th of 2016?

A. Well, in his past -- yes, in the past medical history I asked him if he had any urinary issues prior to 9/14/2016 and he said he did not.

Q. Okay. So this reference to problems, unable to urinate regularly and urinating -- or having dark urine from June of 2014, you have

no information related to why he was experiencing that, correct?

A. Well, from looking at the medical records because I had them before, this was a -- you know, this was an incident in which he had urinary symptoms and I think that it's a common thing from time to time. He could have had a urinary tract infection. His urine was dark. He could have just been dehydrated and so he wasn't urinating regularly. And the memory issues could have been related to that actual time he was bumped in the head or if he was having seizures. All of those cause memory issues.

So to me this kind of goes to show that if he had urinary problems he would have sought medical care but he only did on one occasion which could have been for any reason unrelated to the neurogenic bladder that occurred years later.

Q. I am going to scroll down to Exhibit 5. So this is Exhibit 5 from today's deposition, and this is a record from Upstate University

Health System and I will just highlight the date January 19th of 2017. I am just going to go through a few pages. At one point in this document it mentions that "28-year-old male presents with urinary retention and dysuria for two days." Do you see that?

A. Yes.

Q. Okay. So I think earlier we mentioned that dysuria is painful urination, correct?

A. Yes.

Q. Okay. So if we read this particular record from January 19th of 2017, it only mentions that Mr. Raymond was having urinary retention and dysuria for two days, correct?

MS. ROSENFELD: Objection.

A. That's what it states.

Q. Okay. So there is no mention of Mr. Raymond having this problem for four months, correct?

MS. ROSENFELD: Objection to the form.

A. I just want to check. What is the date of this again? I can't see it. Oh, January 19th. Right, that's all it says but we know otherwise because we have all the other

records.

Q. Okay. But according to this document that's what Mr. Raymond told the medical staff at Upstate Hospital, correct?

A. That's what he told them and that's what they recorded, but in fact he had been having urinary symptoms right along. Maybe it was worse for two days, I don't know.

Q. Okay. Scrolling to the next page of that --

A. Can you stop there? He said that it happened before back in September after he sustained trauma. He is vague about what occurred. So he does talk about that.

Q. I was actually going to ask you about that particular sentence.

A. Sorry.

Q. So he makes reference that he had urinary retention issues back in September of 2016, correct?

A. That's correct.

Q. Okay. But in that particular sentence the reference is that it happened once before so there is no reference in this document

happening after September of 2016, correct?
A. True. But, again, we have the records that show that it did.
Q. Okay. But this is what Mr. Raymond told the doctors that they -- at Upstate Hospital, correct?
A. Yep, and they notice he is vague. He is vague about what occurred.
Q. What do you mean by that?
A. That's the next sentence: "Patient vague about what occurred." Consistent with how he was with me. He doesn't seem to really want to talk about it too much.
Q. Okay. Now, the next document is marked for today's deposition as Exhibit 6, and this is another report from Upstate University Hospital. This one is dated January 24th, 2017, so about five days after the previous document. Here it says the assessment is that "28-year-old with likely urethral stricture and gross hematuria." What does that mean?
A. He was bleeding a lot in the urine. They thought he had urethral stricture. Where is

he right now? Is he in the emergency room? Is he -- where is he? He is at Upstate, but what is this?

Q. Let me see if I can --

A. Is it the urologist?

MS. ROSENFELD: Pat, can you just scroll it out to show the entire page? I know you scrolled it in to accommodate me, thank you, but I think it would be helpful to see the whole page.

A. And go up one more.

Q. To the next documents you mean?

A. Yeah, is that a different document or does it continue?

Q. It's a different document.

A. It's a different date?

Q. This is from January 19th.

A. Okay. Then scroll down. I don't know where he is here.

Q. Okay. Well, we know he is at Upstate Hospital, right?

A. Yeah.

Q. Okay. So the reference to a "likely urethral

stricture," according to this document, that was the determination of why he was having problems urinating, correct?

MS. ROSENFELD: Objection.

A. They state it's likely a urethral stricture and they go on to order tests, cystoscopy/retrograde urethrogram, to further characterize the situation.

Q. What do you mean?

A. What they write is -- so they say he likely has a urethral stricture and they discuss the case and decide to perform a cystoscopy and retrograde urethrogram in the next visit to further characterize the situation. They don't have a firm diagnosis, but that's where they're going to -- they're going to work him up for possible urethral stricture.

Q. Okay. What is cystoscopy/retrograde urethrogram, if you know?

A. So it's a procedure where they also image the bladder and all of the structures going to the bladder. It wouldn't be something I order. You know, this is sort of to look at the

anatomy of the urinary system. So I would send somebody to a urologist and they might order it, but I wouldn't order this.

Q. So that particular test, would that be able to determine if the individual has a neurogenic bladder?

A. No, I think it's more to determine if they have urethral stricture.

Q. Okay. So on September 14th of 2017, at Upstate Hospital, at that point it looks like they were not examining whether he had a neurogenic bladder yet, correct?

A. Oh, I think they're just looking for any cause of his bladder issues and, you know, that's what we send them to urology for, to see if -- to see what the problem could be and they're usually looking at the bladder and the urethra itself.

Q. Okay. But at this point on January 24th of 2017, they're looking at whether he as a stricture, correct?

A. That's right.

Q. I am going to go to Exhibit 8. It's marked as

Exhibit 8 for today's deposition. This is another record from Upstate Hospital. This one is from April 26th of 2017 and I am just going to scroll down a few pages to this area where it says physical exam. I just have a few questions about this record. It says head is "normocephalic and atraumatic." What does that mean?

A. So his head is the normal shape and there is no signs of trauma to his head.

Q. Okay. And then eyes --

A. Meaning no bruising, nothing like that.

Q. Got you. So nothing abnormal, correct?

A. Yes.

Q. Okay. For eyes it has "conjunctivae are normal." Do you know what that means?

A. The white part of your eyes look normal.

Q. Okay. So nothing abnormal there, correct?

A. Correct.

Q. It says neck is "supple." What does that mean?

A. Pressed on his neck or touched the front area and it was all normal.

Q. I am going to jump down a little bit. It makes reference to abdomen and it makes a reference to "positive CVA tenderness bilaterally." Do you know what that means?

A. So they were palpating sometimes like sort of hitting with their fist gently on the trunk towards the back on each side.

Q. And does this particular -- this reference to abdominal exam, does this show any type of abnormality?

A. So he was -- they did the CVA and he was tender. He had abdominal tenderness. His stoma appeared pink without any abnormalities around it. There was dried urine in the catheter, and the urine in the catheter bag was amber and clear.

Q. So is it showing anything abnormal with respect to his abdomen?

A. Well, he had tenderness. I don't do abdominal exams like this so I'd have to defer that to somebody else.

Q. Sure. Then there is a reference to neurological exam. "He is alert and oriented

to person, place, and time." Does that show anything abnormal?

A. No, no abnormality.

Q. Now by this point, April of 2017, do you know if there had been any determination if Mr. Raymond was experiencing a neurogenic bladder by then?

A. Well, I believe his neurogenic bladder began with the complaints right after the injury back in October.

Q. Okay I. Guess the question is by April 26th of 2017, upon your examination of all the medical records that were provided to you, was there a diagnosis at that point that Mr. Raymond was experiencing a neurogenic bladder?

A. You mean by other providers?

Q. Yeah, by any -- by any medical personnel.

A. I'd have to go through and see at what point the medical providers started to use the term neurogenic bladder. I am not sure of the exact -- what exact time that happened. I mean, I see ones where they call it neurogenic

bladder but I don't know when it turns.

Q. Okay.

A. I am sorry, I could find out but I just -- I don't know if I know offhand.

Q. Okay. That's fine.

A. I didn't jot that down. Sorry about that. It probably would be easy to tell. But with all these records, to really know, I'd have to go through record by record.

Q. Understood. Now at one point during your review you looked at -- I'll take this off the screen.

At one point during your review you looked at the medical records from Auburn Correctional Facility, correct?

A. Yes.

Q. Okay. So I just want to go through a few of those documents because I have a few questions regarding those.

I think there should be an Exhibit PL8. Do you see that on the screen?

A. Okay.

Q. Okay. Do you see it?

A. Yes.
Q. Okay. There is just a few documents I want to go through with you. Let's actually skip to what was previously marked as Plaintiff's Exhibit 40 so -- actually, let's skip more. Exhibit 41, so previously marked as Exhibit 41, are records, ambulatory health records/progress notes from the date of the alleged incident, November -- or September 14th of 2016. Do you see that?
A. Yes.
Q. Okay. It looks like there is two separate entries, one from 4:25 PM and another from 6:10 PM. Do you see that?
A. Yes.
Q. Okay. So earlier you mentioned that it was your opinion that the medical staff at Auburn facility, Auburn Correctional Facility, should have sent Mr. Raymond to a urologist for a full medical assessment. Is there anything in this particular document which you base your opinion on?
A. About his urology?

Q. About having a full medical assessment done.
A. So what I thought we talked about earlier was a full urologic assessment; is that what you're asking me?
Q. Well, you mentioned in your report that you thought that a full medical assessment should have been done earlier after Mr. Raymond started complaining of abdominal pain and urination problems, and I am just wondering if for instance with this particular document, this is Plaintiff's Exhibit 41, if there is anything here which indicates that you -- reading this, you would have said that he should have been sent -- Mr. Raymond should have been sent for a full medical assessment.
A. Okay. So let me look through it.
Q. I will make it larger for you.
A. He returned from the outside ambulance -- oh, that's okay -- after being discharged. He was aggressive and yelling. He had no seizures. He disconnected the IV and let the blood drip into his mouth. Team sent to the emergency department to escort inmate back. Oh, okay.

Upon return, he claims to be having a seizure. Pupils were equal and reactive. Responds appropriately to stimuli. Per security, was thrashing around in the van. Has reddened and swollen areas.

So, I mean, typically he -- so from my perspective, this is still part of his seizure event. So you have a seizure and then you have a postictal period which is considered part of the seizure which is a prolonged area of either confusion or aggressive behavior. We don't discharge people until their seizure is complete, so I don't -- he looks like he is just being assessed by a nurse in an outpatient setting. So at this point here, he needs a higher level of care.

I don't know what -- I don't know what the facility has, if they have like an observation unit or -- but he would either -- if he was on the outside, he would stay in the emergency department or an observation care in the emergency department until his mental status returned to normal. He is far from a

normal mental status. So at this point, I would begin the trip back to the emergency department because he is not stable unless they have -- I mean, I don't know what they have at the -- I don't know what kind of services they offer here, but he needs like one-to-one observation and medical care.

So that was at 4:25. At 6:10 now he has tied a sheet around his neck. He has got some sort of scratch or something on his neck. He is angry. So, again, to me his mental status is still not returning to normal.

Q. I think he used --

A. Also he was given IV Keppra in the emergency department which can make you agitated. To me he is not -- he is not a stable patient so neurology, if this was the hospital, we wouldn't let him go. I am not saying we'd admit him to the hospital, but he would stay either in the ER or in the obs unit in the emergency department. So, again, I don't know what facilities they have here but he is not stable.

Q. Okay. So your opinion is with these two entries from September 14th, 2016, that the medical staff at the facility, Auburn facility, should have -- and I think the term you used was a higher level -- should have sent Mr. Raymond to a higher level of care?

A. And maybe they did. I mean, I don't know what Auburn has but he needs something equivalent to an acute medical area to observe him. Maybe they have that there, but he needs -- he doesn't need a clinic setting. He doesn't need -- he needs acute medical care which would be like an ER.

Q. And this is related to his --

A. Postictal state.

Q. -- mental state at this point, correct?

A. That's right.

Q. So the next document I am showing you is Plaintiff's -- was previously marked as Plaintiff's Exhibit 42 and, again, this is an ambulatory health record progress note from the Auburn Correctional Facility and this one is dated September 17th of 2016, so it's three

days after the alleged assault of September 14th, 2016.

Is there anything about this record which you think indicates that Mr. Raymond should have been sent to get a full medical assessment?

MS. ROSENFELD: Objection to the form of the question.

A. Well, it looks like they called a doctor.

Q. Okay. Is there anything in this document which you feel indicates that Mr. Raymond should have been taken out of the facility and sent to, for instance, emergency care?

A. Well, I guess the issue is whether in -- I mean, I am looking in hindsight. This is probably the beginning of his neurogenic bladder, but at the time I think they feel he just has a urinary tract infection and they treat him so I don't see any issue with this.

Q. Okay. So the next document is Plaintiff's Exhibit 43 and this is again an ambulatory health record progress note regarding Matthew Raymond. There is one entry from September

19th of 2014 [sic] and then two entries it looks like from September 28th of 2016. In your opinion, is there anything in this record which indicates that Mr. Raymond should be sent to receive a full medical assessment?

MS. ROSENFELD: Objection to the form of the question.

Q. Do you need me to make it smaller so you can see?

A. No, no, no. So the first one he has missed some doses of Keppra, and it looks like they referred him to the treating provider to review. That seems okay. The next one he has more urologic issues. Does that say hematuria? I can't read it. Something on and off; is that what it says? It's just kind of small. Is that what they're talking about? Yeah, that's a urology issue. Again, I wouldn't treat -- this wouldn't come to me. This wouldn't come to me with his urine dipstick and they're looking at urinary tract infection. I don't know -- I don't know what -- how can I say, I am not part of the

treatment of urinary tract infections.

Q. Okay. Well I guess the question is, with respect to this document, this page, is there anything in it which you feel that Mr. Raymond should have been sent to have a full medical assessment to determine if he is having potential neurogenic bladder?

A. In hindsight, yes, but the kind of information they get which is just a quick note, there is nothing in that that I see that look like -- it's hard to read the writing, too. I mean, it's hard for me to say.

MS. ROSENFELD: Dr. Leitch, you can look at your own report, too, to the extent that you want to cross reference the pages that Mr. Mackey is showing you with what you wrote about these records.

THE WITNESS: Okay.

Q. Let's go down. So I am showing you what's been marked, previously marked as Plaintiff's Exhibit 45, which again is an ambulatory health record progress note regarding Matthew Raymond. All three entries are October 6th of

2016.

Is there anything in this document which leads you to believe that the medical staff at the Auburn facility should have sent Mr. Raymond to receive a full medical assessment?

A. Again, I'd have to say that these kind of issues wouldn't come to neurology, burning with urinations, I can't really give a -- I can't really give a -- I can't really give an opinion because it's different than I would have -- I would have assessed him different. I would have examined him so I really can't give an opinion on these sick calls.

Q. Okay. You did mention in your report though that you felt that the medical staff at the Auburn facility failed to timely have Mr. Raymond receive a full medical assessment. I guess --

A. That --

Q. -- why was that in your report if you're unable to make any type of determinations of whether urological care is being properly

provided to Mr. Raymond?

A. I guess -- I guess my point is, I don't know if I can tell you the exact date in which I would have said this is the time he needed to go based on what's written. But as time passed and he kept going, he kept -- he was seen multiple times and nothing was done. I think they needed to send him before he had a catheter in.

Q. Let's look at Plaintiff's Exhibit -- this was previously marked as Plaintiff's Exhibit 46. This is an ambulatory health record progress note for Mr. Raymond. First entry doesn't have a date. The second entry has a date of October 12th, 2016, and the third entry has an October 19th, 2016, date.

With this particular document, is there anything in here that you feel indicates that Mr. Raymond should have been sent to receive a full medical assessment?

MS. ROSENFELD: Objection. Asked and answered. I think she has answered this question each time the same, Pat. We can go

through every record, but I think you just got your answer.

MR. MACKEY: Right. I mean, it is a different exhibit.

A. So my answer would be with each of these things individually they came for blood in the urine. Again, this isn't my -- this isn't my field. But before when he kept having problems that didn't improve and ends up with a catheter, sometime before that catheter was in I think they should have sent him for a full examination.

Q. And I guess why do you feel that way? How do you know that that wasn't the proper time to send him for the catheter?

A. When anyone -- so this is a general thing. When people keep coming to you for a problem that isn't improving, you need to send them on to something -- to a higher level of care. I mean, he was seen -- this is just general medicine. He was seen just from what I have one, two, three, four, five, six, seven, eight times and nobody sent him for anything

further. It seems like they weren't getting anywhere. At some point he needed to be sent for higher level of care.

Q. Okay. Let's take a look at what was previously marked as Plaintiff's Exhibit 47. It appears to be an October 18th, 2016, report of an ultrasound done of Mr. Raymond. Are you familiar with this document at all?

A. What's the date? I am not sure if I have seen it before. I'd have to look through. I am not sure. What is the question?

Q. Let's take a look at the findings which I just highlighted. With this particular finding, do you find anything abnormal with respect to the ultrasound that was given?

A. Well, the impression is a spermatocele.

Q. And what is that?

A. I really don't know.

Q. So this was done October 18th of 2016 ordered by the Auburn Correctional Facility. So it does appear that sometime in October the facility did ask or did have Mr. Raymond see an outside medical provider to get ultrasound

imaging, correct?

A. Well I, don't know. Auburn itself ordered this testicular exam. I don't know if he ever got a medical -- full medical follow-up. The ordering provider was Auburn Correctional Facility. So somebody ordered an ultrasound of the testicles. I really don't know anything about what the diagnosis of a testicle problem is. I don't mean that in a glib way. I really just don't.

Q. No, I understand.

A. I don't know whether to believe that was the necessary test.

Q. The part I highlighted, do you agree that it indicates that Auburn Correctional Facility was the provider that ordered this exam?

A. Right. So I don't know if he got a medical -- a full medical assessment. I don't know who ordered that, like what individual, what kind of person just at the correctional facility ordered it.

MR. MACKEY: Okay. If you don't mind giving me five minutes, I just want to go

through my notes and make sure I have everything covered so if we could take a five-minute break.

MS. ROSENFELD: Sure. That's fine.

(A recess was taken.)

BY MR. MACKEY:

Q. Dr. Leitch, thank you for your time. I just have a few more questions. We should be done in like five minutes.

A. That's no problem.

Q. I guess the question I have is what actual physical injury did Mr. Raymond sustain which caused him to suffer neurogenic bladder?

A. The traumatic brain injury.

Q. Okay. And what type of test indicates that he had a brain injury? Is there like a CT scan or an MRI? Is there anything that shows the injury?

MS. ROSENFELD: Objection to the form.

A. There was no abnormality on his imaging which is often consistent with a head injury because the head injury/concussion/ TBI can just be on

the cellular level while a CT and MRI are more structural, so you wouldn't be able to see it on a CT or an MRI.

Q. Okay. So just so I understand, your opinion is that he did not suffer a neurogenic bladder because of a spinal injury, correct?

A. That's correct.

Q. And it's your opinion that Mr. Raymond did not suffer a neurogenic bladder because of a neck injury, correct?

A. That's correct.

Q. Okay. So you're basing your opinion on the fact that he suffered a neurogenic bladder because of a brain injury?

A. Correct.

Q. Okay. Now, what would we be able to look at, whether it be an MRI, CT scan, x-ray, to see that injury, if anything?

A. You cannot. I mean, the only thing you're down to is biopsy which of course you can't do. So most of the testing you could see it on postmortem, but we would hope we don't have to do that so CT and MRI are often normal.

Q. Okay. So -- and with respect to your experience with dealing with patients with neurogenic bladder caused by brain injury, is that common that you cannot see the actual physical injury?
A. That's the typical thing, that's right.
Q. Okay. So how do you rule out that the neurogenic -- that he even has a neurogenic bladder, that the cause of his problems urinating is unrelated to neurogenic bladder?
MS. ROSENFELD: Objection to the form.
A. So for me, if I was concerned he had neurogenic bladder, I would send him to the urologist because I wouldn't know if it was caused by any of the other types of strictly urologic issues such as problems with the bladder, problems with the urethra, and that's what they did in this case. They sent him to the urologist, and the urologist makes the conclusion that he has a neurogenic bladder.
Q. Okay. So just so I understand, is it fair to say that the determination that Mr. Raymond has a neurogenic bladder is based on the fact

that the doctors have ruled out it's a urological cause and the doctors have ruled out it's an injury to his spine and neck?

MS. ROSENFELD: Objection to the form.

A. You have to say it again. I am sorry.

Q. Sure.

So the determination that Mr. Raymond has a neurogenic bladder, is that based on doctors just ruling out that it's not a urological issue and that it's not an injury to his neck or spine?

MS. ROSENFELD: Objection to the form.

A. Well, an injury to the neck or spine could cause neurogenic bladder as well. The neurogenic bladder would have been the suspicion from the beginning, but whenever you do a diagnosis you have to look at any other possible cause. So I think the neurogenic bladder diagnosis stands on its own based on the head injury and the subsequent development of the neurogenic bladder and the temporal course, but it only would be good medicine to make sure there is anything else that could be

causing it or contributing to it that could be treated.

Q. Okay. Not sure you exactly answered my question so maybe let me break it down for you.

With Mr. Raymond's particular case, are you stating that his diagnosis of neurogenic bladder is based both on a ruling out that it was caused by urological problem and a ruling out that it was caused by a neck or a spine injury?

A. I am not.

Q. Okay. So what physical evidence do you have to show that it's caused by a brain injury?

A. He had --

MS. ROSENFELD: Objection. Go ahead.

A. He had a traumatic brain injury. The occurrence of a traumatic brain injury with the subsequent temporal course of developing the neurogenic bladder would be the same as any sort of -- any sort of problem to the brain and subsequent problems that occur afterwards. You can make sort of a direct

line.

Q. Okay. So I understand you're stating that the alleged assault of September 14th, 2016, is the cause of the neurogenic bladder. Was he more susceptible at that point because of his previous injuries for suffering a neurogenic bladder?

A. I --

MS. ROSENFELD: Objection. Go ahead.

A. I think it's been well established that people with recurrent brain injury tend to be more susceptible. So you had someone who already didn't have a great brain, who already had some susceptibility, then to get another traumatic brain injury, I think it led to the neurogenic bladder.

Q. Okay.

A. Maybe he would have got it anyways, but it didn't help that he had the previous head injury and the previous seizure disorder. That certainly didn't help.

Q. What do you mean he may have gotten it anyway?

A. He may have had the assault, had the traumatic

brain injury and got neurogenic bladder. I am saying that the previous events increased the chance of it occurring.

MR. MACKEY: Okay. All right. I don't have any further questions.

MS. ROSENFELD: I don't have any questions either. Thank you.

MR. MACKEY: Okay, all set.

THE REPORTER: For the billing, are you each paying separately or are you being supplied?

MS. ROSENFELD: I think that Mr. Mackey is going to provide us a copy for the witness.

MR. MACKEY: Yes.

(Deposition concluded at 5:53 p.m.)

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